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EXAMINER

KRAMER, JAMES A

ART UNIT

PAPER NUMBER

3627

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/026,839

Applicant(s)

ELWOOD ET AL.

Examiner

James A. Kramer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 9/1/05.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9, 11-13, 20-25, and 30-50 as best interpreted by the Examiner are rejected under 35 U.S.C. 102(b) as being anticipated by www.ibutton.com (hereinafter).

The archived version of www.ibutton.com from October 12, 1999 was found by the Examiner using “The WayBack Machine” at www.archive.com. The Internet Archive is a comprehensive library of Internet sites and other cultural artifacts in digital form. The Wayback Machine is a free service allowing people to access and use archived versions of past web pages within the Internet Archive. Visitors to the Wayback Machine can type in a URL, select a date range, and then will be able to search and view the Internet Archive's enormous collection of web sites, dating back to 1996 and comprising over 10 billion web pages.

With respect to **claim 1**, www.iButton.com teaches *a first tracking device attached to an item associated with the storage unit, wherein the tracking device is configured to monitor a presence and obtains a temperature reading of the item* (see (b) ThermoChron iButton HomePage and (D) TheroChron iButton News Release and (g) iButton Overview).

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First, Examiner points to Applicant's Specification, page 10 paragraph 0045, lines 11, "The iButton is an example of a tracking device." Applicant goes on to disclose on pages 11-12, paragraph 0047,

"An iButton, such as the Thermocron iButton, is useable to track time and temperature. The Thermocron iButton integrates a thermometer, a clock/calendar, a thermal history log and memory to store information about the item or goods 14 associated with the Thermocron iButton. The Thermochron iButton is able to store the information corresponding to the taking of the temperature of the item or goods 14 at particular instances in time. The stored information may be accessed from the iButton, (by) the processing and/or data storage device 18 and/or network 20."

Examiner points out that Applicant discloses that iButtons are a tracking device that attach to items configured to obtain a temperature reading of the item. Further, Examiner by way of The WayBack Machine has demonstrated that iButtons were available more than one year before Applicant's earliest filing date.

Second, Examiner relies on (g) iButtons Overview, page 2: **How Do I Get Information In and Out of the iButton?** which states, "Information is transferred between your iButton and a PC with a momentary contact. You simply press the iButton to the Blue Dot receptor." Examiner asserts that this represents a tracking device configured to monitor a presence of the item.

In support of the assertion made in the previous paragraph, Examiner once again turns to Applicant's Specification, this time pages 13-14; paragraphs 0052 –0054. Examiner notes that this section includes a description of how Applicant's tracking device is configured to monitor the presence of an item.

"It will be readily understood, as described in exemplary embodiments of the invention herein, that a tracking device 22 may have one or more conductive portions, such that when the one or more conductive portions of the tracking device 22 mate or couple with the conductive portions of a device that is electronically linked to the

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network 20, the access control system 26 and/or the external network 28 . . . the goods associated with the tracking device will be linked to the processing and/or data storage device 18, network 20, access control system 26 and/or central network 28.

“In exemplary embodiments of the present invention, by linking the goods 14 to the processing device and/or data storage device 18 or network 20 via the tracking device 22, any identifying information, historical and/or current information related to the goods 14 . . . and the temperature of the goods at discrete times can be logged on to the processing and/or data storage device 18 or network 20.

“For example, the processing and/or data storage device 18 or network 20 can then be utilized to recognize that an item has been placed in the storage unit 12, the date and time that the item 14 was placed in the storage unit, whether an item 14 has been removed from the storage unit, and/or the date and item that the item 14 was removed from the storage unit, whether an item 14 that was removed from the storage unit was replace in the storage unit, the date and time the removed item was replaced in the storage unit, whether the temperature of the item 14 changed, and when the temperature of the item 14 changed.”

In other words, Applicant defines “configured to monitor the presence of an item” as determining the presence of an item when the conductive portion of the tracking device is coupled to or mated with the conductive portions of a device electronically linked to a computer. Examiner notes that this is the exact definition provided in www.iButton.com, (g) iButton Overview (“Information is transferred between your iButton and a PC with a momentary contact. You simply press the iButton to the Blue Dot receptor.”)

With further respect to **Claim 1**, www.iButton.com teaches *a processing device electronically linked to the first tracking device that communicates with the tracking device, wherein the first tracking device automatically transmits the presence and temperature reading at discrete time intervals* ((g) iButton Overview, page 3 “What Do I Need to Put Together an iButton Application” and (D) Thermocron News Release page 2, lines 30-37).

Examiner specifically that www.iButton.com teaches that a host system: this can be a C, laptop or a hand-held computer and a reader/writer device to get information into and out of the button: this can be a Blue Dot receptor, a pen-stylus probe or a hand held, are required to put together an iButton Application. Examiner notes that the reader/writer represents Applicant processing device electronically linked to the first tracking device that communicates with the tracking device.

Further, Examiner notes that section (D) Thermocron News Release, teaches the automatic downloading (synchronization) of data from an iButton to a web server. In the example provided on lines 30-37 a user touches the iButton with a cordless pen-style Dot receptor then places it in a cradle for the automatic download. However, as was taught in section (g) iButton Overview, page 3 “What Do I Need to Put Together an iButton Application”, a Blue Dot can be substituted for a pen-style probe. As such, iButton teaches when the conductive portion of the iButton couples with the conductive portion of the Blue Dot, data from the iButton can be automatically downloaded. In other words, www.ibutton.com teaches a push style transfer of information.

With respect to **Claim 2**, www.ibutton.com *teaches a data storage device that is electronically linked to the processing device* ((g) iButton Overview, page 3 “What Do I Need to Put Together an iButton Application”). Examiner once again points out that a PC, a laptop or a hand-held computer are all required for a iButton application. Any one of these three represents a data storage device electronically linked to the processing device (reader/writer device).

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With respect to **Claim 3**, www.ibutton.com teaches *wherein the data storage device stores data obtained from the first tracking device* ((g) iButton Overview, page 3 “What Do I Need to Put Together an iButton Application”). See analysis above of host computer.

With respect to **Claim 4**, www.ibutton.com teaches *wherein the processing device writes the data to the first tracking device* ((g) iButton Overview, page 3 “What Do I Need to Put Together an iButton Application”). Examiner notes that the reader/writer device above clearly writes data.

With respect to **Claim 5**, www.ibutton.com teaches *a data storage device that is electronically linked to the first tracking device*. ((g) iButton Overview, page 3 “What Do I Need to Put Together an iButton Application”). Examiner notes the data storage device of www.ibutton.com as describe in detail above is electronically linked to the tracking device, though the reader/writer. Examiner note that this is consistent with the open-ended transitional phrase “comprising” (See MPEP 2111.03).

With respect to **Claim 6**, www.ibutton.com teaches *wherein the processing device reads data from the first tracking device and generates read data* ((g) iButton Overview, page 3 “What Do I Need to Put Together an iButton Application”). Examiner notes that the reader/writer device describe above clear reads data.

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With respect to **Claim 7**, www.ibutton.com teaches *wherein the read data is stored in the data storage device* ((g) iButton Overview, page 3 “What Do I Need to Put Together an iButton Application”). Examiner notes that the reader/writer device is used to get data into and out of the device. As such the read data is taken from the device and clearly stored in the host system (or data storage device).

With respect to **Claim 8**, www.ibutton.com teaches *a second tracking device which is a tracking socket that is electronically compatible with the first tracking device that is associated with the item* ((g) iButton Overview, page 3 “What Do I Need to Put Together an iButton Application” and (h) Blue Dot Receptor Overview). Examiner notes that the Blue Dot Receptor acting as a reader/writer device is a socket, as defined by Applicant’s Specification (see pages 27-28, paragraph 0087).

With respect to **claims 9 & 11**, www.ibutton.com teaches *a refrigerator* ((B) Thermochron Web Page, page 2, line 9), and *a blood storage unit* ((B) Thermochron Web Page, page 1, lines 16-18).

With respect to **claim 12**, www.button.com teaches *the tracking device is a computer chip enclosed in a stainless steel housing* ((B) Thermochron Web Page, page 2, lines 10-13).

With respect to **claim 13**, www.ibutton.com teaches *an access control system connected to the processing device* ((g) iButton Overview, page 3, lines 8-10). Examiner notes that this

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section teaches that an iButton can be used to grant access. Examiner notes that this represents an access control system.

With respect to **claim 20**, www.ibutton.com teaches *wherein the tracking device generates temperature information by taking the temperature of the item.* ((B) Thermochron Web Page)

With respect to **claim 21**, www.ibutton.com teaches *wherein the tracking device stores the temperature information* ((B) Thermochron Web Page)

With respect to **claim 22**, www.ibutton.com teaches *a plurality of tracking devices associated with a plurality of items in the storage unit* ((B) Thermochron Web Page, page 1, lines 11-20). Examiner notes that attaching to containers of frozen foods, represents a plurality of the devices, each attached to an individual container.

With respect to **claim 23**, www.button.com teaches *an external processing device connected to the processing device, where the information can be accessed from the external processing device by a user of the external processing device* ((g) iButton Overview, page 3 “What Do I Need to Put Together an iButton Application”). Examiner once again points out that a PC, a laptop or a hand-held computer are all required for a iButton application. Any one of these three represents a external processing device electronically linked to the processing device (reader/writer device).

With respect to **claim 24**, www.button.com *teaches an wherein the external processing device is part of an external network* ((D) News Release, page 1, lines 14-17). Examiner notes that this section teaches networking the Thermocron.

With respect to **claim 25**, Examiner references the analysis as applied to claim 1.

With respect to **claim 30**, www.ibutton.com teaches wherein the taking of the temperature of the item is performed and recorded at discrete intervals of time ((b) Thermocron Webpage, page 2, lines 16-20). Examiner notes that waking up to take time and date stamped temperature readings represents taking the temperature at discrete intervals of time.

With respect to **claims 31, 33, 34, 35 and 38**, Examiner references the analysis as applied to claim 1.

With respect to **claims 36 and 37**, Examiner references the analysis as applied to claim 13.

With respect to **claims 39 -41**, www.ibutton.com teaches *the tracking device monitors the temperature of the item when the item is outside the storage unit* ((D) News Release page 1, lines 14-17). Examiner notes that roaming with an object, includes the ability to go wherever the object goes, including outside of a container (storage unit).

With respect to **claim 42**, www.ibutton.com teaches *the item being placed in a container that is automatically, electronically linked to the processing device.*((D) News Release, page 1, lines 6-14 and (f) FAQs page 4, lines 17-21).

First Examiner notes that as the first tracking device is attached to the item (require by claim 1), this claims requires a second tracking device attached to the container, in order for the second container to be electronically linked to the processing device. Examiner notes that www.ibutton.com teaches in-container monitoring of items (attached to the item) as well as attaching the iButton to the containers ((D) News Release, page 1, lines 6-14).

Secondly, as the container is linked to the processing device, the claim requires that the tracking device attached to the item and the tracking device attached to the container both be connected to the processing device or multi-dropped ((f) FAQs page 4, lines 17-21).

With respect to **claim 43**, Examiner references claim 1, and notes that the identification of status is the identification of temperature. Further the identification of location is the same as that of presence.

With respect to **claim 44**, www.ibutton.com teaches *wherein the tracking device has a real-time clock* ((c) Thermocron Data Sheet, page 5, "Real-Time Clock/Calendar" section).

With respect to **claim 45**, www.ibutton.com teaches *wherein the tracking device obtains the temperature reading at discrete time intervals and maintains the temperature reading in a*

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thermal history log ((b) Thermocron Webpage, page 1, line 22 and page 2, lines 16-20).

Examiner notes that www.ibutton.com teaches that the iButton includes a thermal history log (page 1, line 22). Further, Examiner notes that waking up to take time and date stamped temperature readings represents taking the temperature at discrete intervals of time (page 2, lines 16-20).

With respect to **claim 46**, www.ibutton.com teaches ***the tracking device maintains the thermal history log when the tracking device is not electrically linked to the processing device*** ((b) Thermocron Webpage, page 1, lines 11-16). Examiner notes that storing time and temperature wherever thermally vulnerable products go, represents maintaining the thermal history log even when the device is not electronically linked to the processing device.

With respect to **claim 47**, www.ibutton.com teaches ***wherein the tracking device may be placed in a container, on a shelf or the item*** ((D) News Release, page 1, lines 6-14). Examiner notes that www.ibutton.com teaches in-container monitoring of items (attached to the item) as well as attaching the iButton to the containers.

With respect to **claim 48**, www.ibutton.com teaches ***wherein the processing device monitors and maintains a log of identifying information of the item at discrete time intervals*** ((D) News Release, page 2, lines 7-24).

Examiner notes that Applicant defines the process of logging identifying information at discrete times in the Specification page 13, line 16 – page 14, line 8. Examiner notes that

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Applicant's examples of logging identifying information amount to tracking the characteristics of a particular item at discrete intervals (i.e. recognize that an item has been placed in the storage unit, the data and time the item was placed in the storage unit, whether the it was removed from the storage unit, whether an item and was removed was replaced, the data and time the removed item was replaced, whether the temperature of the item changed, when the temperature of the item changed). Examiner notes that www.ibutton.com teaches the critical design goal of the iButton is to pinpoint when and for how long a monitored material is out of spec. Examiner notes that this meets Applicant's definition of a log of identifying information of the item at discrete time intervals.

With respect to **claim 49**, www.ibutton.com teaches *the processing device monitors and maintains a log of the item, a time associated with a predetermined event and the temperature of the item at discrete time intervals* ((D) News Release, page 2, lines 7-24 and page 1, lines 18-23).

Examiner references the analysis as applied to claim 48 and notes that taking the temperature of the item represents a predetermined event. As such since the iButton records the temperature and the date-stamps when it occurred, www.ibutton.com teaches a log of the item, a time associated with a predetermined event and the temperature of the item at discrete time intervals.

With respect to **claim 50**, www.ibutton.com teaches *wherein the tracking device monitors and maintains a log of the presences or absence of the item inside the storage unit, a*

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time associated with the presence or the absence of the item , the temperature of the item associated with the presence or the absences of the item and a temperature differential between the presence and the absence of the item ((D) News Release, page 2, lines 7-24 and page 1, lines 18-37)

Examiner once again notes the analysis of claim 1 and in particular the details with respect to “the presences of the item”. Examiner notes that this amounts to determining whether the tracking device is mated with or coupled to the processing device (read/write device).

Further, Examiner relies on Applicant’s Specification, page 14, lines 9-14, which states “the tracking device 22 is utilized to perform temperature profiling of the goods 14 when the goods 14 are outside the storage unit 12. The information will be stored in the tracking device 22 and communicated to the processing and/or data storage device 18 or the network 20 when the goods 14 and/or the inner storage unit 24 is placed back into the storage unit 12.” Examiner notes that placing the goods back into the storage unit amount to re-coupling or re-mating the tracking device with the processing device.

Examiner notes that www.ibutton.com’s teaching that the user being able to request where the physical object was last seen and the history of its thermal exposure, directly relates to noting where (the presences) the object was last mated or coupled to a reader/writer (processing device) and the transport of that information associated with the thermal history of the item as stored in the log of the tracking device.

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With respect to claim 51, www.ibutton.com teaches the tracking device identifies an authorized user ((g) iButton Overview, page 3, lines 9-10). Examiner notes that this section teaches that iButtons can grant its owner access, which represents identifying an authorized user.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over www.ibutton.com in view of *Webster's New Riverside Dictionary*.

Examiner notes that www.ibutton.com, as discussed in detail above teaches that the ibutton (tracking device) can attach to any container ((b) Thermocron Webpage, page 2, lines 7-8). However, www.ibutton.com fails to specifically teach an incubator. *Webster's New Riverside Dictionary* teaches an incubator is a cabinet in which a desired temperature can be maintained.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of www.ibutton.com to include the specific type of cabinet/container including an incubator as taught by *Webster's New Riverside Dictionary*. One of ordinary skill in the art would have been motivated to modify the teachings of www.ibutton.com in order to give a more complete listing of available applications.

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Claims 14-19, 26-29 and 52-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over www.ibutton.com in view of De La Huerga.

As discussed in detail above with respect to claim 13, www.ibutton.com teaches that the ibutton can be used to grant access ((g) iButton Overview, page 3, lines 7-10). This section also teaches the use of the iButton in a badge identification system.

In addition, www.ibutton.com further teaches matching the data stored and monitored by the ibutton with additional information in order to provide a detailed record of the item. For example, section (D) News Release teaches associating the time and temperature information with a freight record (page 2, lines 20-21) to provide a trustworthy account of an item's travels.

However, www.ibutton.com does not specifically teach:

- (Claims 14 and 26) using the access system/ badge identification system to grant access to the storage unit.
- (Claim 15) wherein the access control system is a bioinformatics system
- (Claim 16) wherein the bioinformatics system is a retinal scan
- (Claims 17 and 27) wherein the access control system maintains a log within the access control system of individuals who access the storage unit
- (Claim 18) wherein the access control system communicates information to the processing device about an individual who has accessed the storage unit
- (Claims 19, 28-29 and 52) wherein the information communicated to the processing device about the individual is at least one of identification information and time of access information, including accessing and exiting the storage unit (container).
- (Claim 53) wherein the access control system monitors the item that is accessed by authorized users.

De La Huerga teaches a hospital access control system for a medical container (see col. 10, lines 14-34; col. 13, lines 2-5; col. 20, lines 54-67; col. 21, lines 1-26 and Figure 5).

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With respect to **Claims 14 and 26**, De La Huerga teaches access to the medication disposed within the container may be conditioned upon clearance from a security badge (col. 21, lines 3-6).

With respect to **Claims 15 and 16** De La Huerga teaches more elaborate means, including a retinal scan could be incorporated into the security badge to reinforce security (col. 13, lines 2-5).

With respect to **Claims 17 and 27**, De La Huerga teaches the medical container stores information including time, staff and patient identification related to a transaction (col. 20, line 66 through col. 21, line 2).

With respect to **Claim 18, 19, 28, 29 and 52-53**, De La Huerga teaches the medical container transmits information to a network which includes information relating to the administration of the medication, and including time, staff and patient identification (col. 21, lines 20-26. Examiner further notes (with respect to claims 28-29 and 52) that access to the medical cabinet is through a security latch. It is at the very least obvious that the time information saved by the medical cabinet includes a release of the latch (access) and then a reapplying of the latch (exiting).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to associate the information obtained from the access control system taught by De La Huerga to the information obtained from the iButton, in a similar manner as the freight information. One of ordinary skill in the art would have been motivated to combine an access

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control system with the iButton in a hospital application in order to prevent medical supplies from being improperly accessed.

Response to Arguments

Applicant asserts that iButton fails to teach a “tracking device configured to monitor a real-time presence” as recited in claim 1. Examiner respectfully disagrees. Examiner first asserts that “configured to monitor a real-time presence” is very different from monitoring a real-time location. Monitoring a real-time location appears to require a global positioning system in order to triangulate the “location” of an item being tracked. This is clearly not the intention of Applicant’s invention. Rather Applicant’s claimed invention merely monitors whether an item is “present” in a storage device.

Support for this assertion by Examiner can be found in Applicant’s specification on page 10, lines 8-11. “By associating the tracking device 22 with goods, the tracking device serves as a means for identifying, monitoring and tracking the status and location of the goods. The iButton is an example of a tracking device.” By Applicant’s own specification, since an iButton can be associated with goods, the iButton is clearly configured to monitor a real-time presence as intended by Applicant.

Applicant also asserts that iButton does not teach a tracking device that, “obtains a temperature reading of the item on a continuous basis and creates a thermal log.” Rather the thermal log created by the iButton, “will not log temperature while your PC is not connected.” Applicant cites references (F) for support of this position. Examiner respectfully disagrees and notes that Applicant clearly omits the statement in the reference that states the iButton is

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intended for “missions” and the section quoted by Applicant includes using the “force temp” command. In other words, Applicant is relying on an exception to the normal use of the iButton. When used for missioning the iButton does obtain a temperature reading of an item on a continuous basis and creates a thermal log.

Examiner concludes by noting that Applicant in fact discloses using the Thermocron iButton for the claimed invention (see specification page 11, line 16 through page 12 line 2). As such, Examiner believes Applicant’s arguments presented with the amendment filed 9/1/05 to contradict the Specification. Specifically, it is unclear how the iButton, disclosed by Applicant as the preferred tracking device could fail to teach any of the claimed features. For this to be true it would appear that the amended claims would have to include new matter.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Kramer whose telephone number is (571) 272 6783.

The examiner can normally be reached on Monday - Friday (8AM - 5PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272 6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James A. Kramer
Examiner
Art Unit 3627

jak

Michael Cuff 11/9/05
MICHAEL CUFF
PRIMARY EXAMINER